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Cc:

Subject: RE: Withholding Question

Yes, the filing of the F8804 starts the SOL running. See March 3, 2009, Chief Counsel Advice, IRS CCA 200913059, 2009 WL 799377 ("The withholding forms are actual tax returns (e.g., for withholding tax for foreign partners under section 1441 et seq), and the assessment is against the state law partnership itself. So if the partnership fails to file the tax form, the period for assessing the entity itself under section 6501 never begins to run.").

Yes, if the partnership has not filed the F8804, then there is no need to obtain a F872 from the partnership entity that is liable for the withholding amount. See IRC 6501(c)(3) ("In the case of a failure to file a return, the tax may be assessed . . . at any time."); 6229(c)(3) ("In the case of a failure by a partnership to file a return for any taxable year, any tax attributable to a partnership item (or affected item) arising in such year may be assessed at any time.").